THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on :15.02.2007

WP(C) No.8024/2006

MAYA DEVI ...Petitioner

- versus -

LAND AND DEVELOPMENT OFFICER ...Respondent

Advocates who appeared in this case:
For the Petitioner : Mr K. R. Manjani
For the Respondent : Mr S. K. Puri, Sr. Advocate with Ms Mahjabeen Shamim and Mr Praveen Kumar Sharma

CORAM:-
HON'BLE MR JUSTICE BADAR DURREZ AHMED

1. Whether Reporters of local papers may be allowed to see the judgment?

2. To be referred to the Reporter or not?

3. Whether the judgment should be reported in Digest?

BADAR DURREZ AHMED, J (ORAL)

1. This petition concerns the question of conversion of the one room tenement at J-IV/6, Old Double Storey, Lajpat Nagar,-IV, New Delhi from lease hold to free hold. The original owner of this property was one Radha Krishan. It appears that on 03.10.1985 an agreement to sell was executed between him and the petitioner (Maya Devi wife of Sh. Ram Chand). A sum of Rs.75,500/- was also paid by the petitioner to the said Radha Krishan and a power of attorney was

executed by Radha Krishan in favour of Bihari Lal, who is the nephew of Maya Devi. It appears that a will was also executed by Radha Krishan bequeathing this property, in the event of his death, in favour of Maya Devi. The possession was also handed over to Maya Devi. Essentially, this was a sale transaction using usual documents of agreement to sell, power of attorney, will etc.

2. As per the policy indicated by the L&DO, conversion of property from lease hold to free hold has been permitted to the persons possessing such documents. The present case has been complicated by two facts, one being that Bihari Lal, in whose favour Radha Krishan had given his power of attorney, has moved to Germany in connection with his business. But, while moving to Germany the said Bihari Lal executed a general power of attorney, which was also registered, in favour of one Thakur Dass. It is this person (Thakur Dass) who applied for conversion of the property from lease hold to free hold on behalf of Maya Devi on the strength of this power of attorney, which was given to him by Bihari Lal. The objection raised by the respondent L&DO is that the power of attorney that was given by Radha Krishan to Bihari Lal did not permit granting of a further power of attorney in favour of any other person. Therefore, they would not be in a position to recognize Thakur Dass as representing Radha Krishan. However, the learned counsel appearing on behalf of the Land and Development

Officer, submits that they would be willing to accept an application signed by Bihari Lal and any other documentation that may be obtained from Bihari Lal from Germany provided these documents are authenticated through the Indian Embassy/ Consulate at Germany.

3. The other complication that has arisen with respect to the question of conversion relates to the allegation that the petitioner has encroached upon public land. Paragraph 2 of the counter-affidavit filed on behalf of the respondent indicates that some inspection was carried out in the year 1985 and 1987 and on the basis of which they found that there were no breaches with respect to the one room tenement, which was sought to be converted from lease hold to free hold but they found that there was some encroachment on the public land, which are given in paragraph 2 of the counter-affidavit. However, the learned counsel for the petitioner points out that in respect of these double storeyed apartments certain developments have taken place whereby certain deviations were regularized by the respondents and there is also a decision of this court to that effect. The learned counsel for the respondent submitted that this matter could also be sorted out by carrying out a fresh inspection in view of this new policy, if any, and the applicant would then be notified if there are any deviations, which need to be corrected.

4. This writ petition is, therefore, disposed of with the following directions:-

(1) The petitioner shall file all the necessary documents as well as the application after obtaining signatures and authentication from Bihari Lal, as indicated above. The said documents would be submitted within one month from today.

(2) Once the said documents are submitted, the respondent L&DO shall process the same immediately by first carrying out an inspection and notifying the petitioner of any deviations/ shortcomings, if any, as mentioned above. This would be notified within two weeks of receipt of the documents. Thereafter if, the shortcomings, if any, are removed, the respondent shall carry out the conversion from lease hold to free hold in favour of the petitioner within four weeks.

This writ petition stands disposed of. No costs.

BADAR DURREZ AHMED
(JUDGE)

February 15, 2007
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